



STATE OF MICHIGAN  
**Department of  
Human  
Services**

## **Memo**

**Michigan Domestic Violence  
& Sexual Assault  
Prevention & Treatment Board**  
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**To: Senate Judiciary Committee members**  
**From: Mary Lovik, J.D., on behalf of members of the Michigan Domestic Violence & Sexual Assault Prevention & Treatment Board**  
**Date: June 5, 2012**  
**RE: HB 5431 (impose penalties for "swatting")**

The Michigan Domestic Violence and Sexual Assault Prevention and Treatment Board opposes HB 5431 as drafted, and respectfully suggests that the bill be amended to narrow its scope to situations where a false report is caused by means of unlawful access to another person's telephone or computer.

The Board has no concerns about the laudable intent of this bill, which is to deter unauthorized remote access into another person's mobile telephone or computer, making it appear that the person has made a 911 call requesting emergency assistance. As drafted, however, the wording of HB 5431 could be invoked to impose criminal penalties on survivors of domestic or sexual violence who call for emergency assistance, but then are forced by their assailants to tell responders arriving on the scene that there is no emergency. Imposition of a 4-year prison term in this situation would further victimize a survivor of domestic or sexual violence who has acted under duress from an assailant. The threat of imprisonment under this bill may also be used by assailants to deter survivors from reaching out for help.

The true underlying criminal act in a "swatting" incident is the unauthorized access of another person's cellular telephone to make a call for emergency assistance. Narrowing the bill's language to include this element would address the Board's concerns about its application to survivors of domestic and sexual violence who are persuaded by their assailants to recant assertions that they need emergency help. Accordingly, the Board suggests amendments to the introduced version of HB 5431 as follows:

Page 2, line 22-23, replace the words "make a false report of a medical or other emergency" with:

"tap, or make any unauthorized connection with or use of, any electronic medium of communication so as to cause a false report of a medical or other emergency to originate or appear to originate from that medium of communication"

Page 3, line 1, add this sentence after "emergencies":

"An electronic medium of communication include the internet or a computer, computer program, computer system, or computer network, or telephone."

Thank you for your attention to the Board's concerns and suggestions.